

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-41395

CHARLES LARABELL, and
GERALDINE LARABELL,

Chapter 7

Judge Thomas J. Tucker

Debtors.

**ORDER DENYING, WITHOUT PREJUDICE, MOTION TO ALLOW DEBTOR
GERALDINE LARABELL TO BE EXCUSED FROM COMPLETING FINANCIAL
MANAGEMENT COURSE**

This case is before the Court on a motion, purportedly filed by both of the Debtors, entitled “Ex Parte Motion to Allow Joint Debtor to Be Excused from Completing Financial Management Course” (Docket # 36, the “Motion”). The Motion, which was filed on October 14, 2014, seeks a waiver of the requirement that Debtor Geraldine Larabell complete a financial management course and file a Certificate of Completion of Financial Management Course. The Motion states that Debtor Geraldine Larabell died on August 19, 2013.

The Motion must be denied because the Motion does not show that it was filed by or on behalf of anyone with standing to seek the relief sought. The Debtor Geraldine Larabell died more than 14 months before the Motion was filed, so neither Debtor Charles Larabell nor his attorney had authority or standing to file the Motion seeking relief on behalf of Debtor Geraldine Larabell.

Only a personal representative duly appointed by the probate court under the laws of the State of Michigan may file a motion seeking relief on behalf of the deceased Debtor, Geraldine Larabell. *See In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001) (citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) (“[W]hen a debtor dies, the only person who can then appear on the debtor’s behalf is the person so named as the official representative of the probate estate of the debtor.”); Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that “[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent’s personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters”); Mich. Comp. Laws Ann. § 700.3703(3) (stating that “[e]xcept as to a proceeding that does not survive the decedent’s death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death”).

Accordingly,

IT IS ORDERED that the Motion (Docket # 36) is denied.

IT IS FURTHER ORDERED that this Order is without prejudice to the right of a duly appointed personal representative of the deceased Debtor to file a motion seeking the same relief that was sought by the present Motion. Any such motion must be filed no later than December 1, 2014.

Signed on November 13, 2014

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge